

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1-26 and 46-47 remain in the application. Claims 27-45 have been cancelled previously and this is indicated in the claims list. Claims 46 and 47 are new and consideration of new claims 46 and 47 is respectfully requested.

Claims 1-19 and 20-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by WO/02069817 to Aeschlimann et al. (hereinafter Aeschlimann). For the following reasons the rejection is traversed.

Claim 1 has been amended to include the following features:

(a) the claimed cutting edges *are capable of cutting the cavity wall of bone tissue*; and

(b) the claimed cutting edges *are distanced from the implant axis by implant-axis-to-cutting-edge-distances, which implant-axis-to-cutting-edge distances are decreasing in the implanting direction*.

The additional feature (a) is supported by at least paragraphs 0021 and 0093 of the specification.

Figure 22 of Aeschlimann reproduced below is referred to within the Office action. Specifically, the Office action states that the elements labeled C-D-E in Figure 22 could be considered to be cutting edges that would be at least capable of

chips of bone from the bone cavity wall, allowing the following cutting edge to cut another chip higher up, as it is accomplished by the implant according to amended claim 1. Additionally, this implant according to claim 1 upon implementation is stabilized in the bone cavity, because each cutting edge is anchored in the bone wall and thereby supporting the implant. This is only possible if the implant-axis-to-cutting-edge distances decrease towards the distal end of the implant, i.e. in the implanting direction as required by claim 1

Claims 2-19 and 20-26 depend directly or indirectly from claim 1 and are believed to be allowable at least for the reasons stated above.

Claim 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Aeschlimann in view of U.S. 6,142,782 to Lazarof (hereinafter Lazarof). For the following reasons, the rejection is traversed.

Claim 20 depends indirectly from claim 1 and is believed to be allowable for at least the reasons stated above. Lazarof does not cure the deficiencies in Aeschlimann regarding the cutting edges of the claimed bone implant.

Reconsideration and withdrawal of the rejection of claim 20 under 35 U.S.C. §103(a) is respectfully requested.

Claim 46 is simply claim 1 rewritten but removing one portion of the alternative language of claim 1. Similarly claim 47 is claim 1 rewritten, but removing the other portion of the alternative claim language of claim 1. Claim 46 and 47 are believed to be patentable over the cited art at least for the reasons claim 1 is considered patentable, stated above.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is

determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. FRG-15998.

Respectfully submitted,

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